# G A C E T O F I C I A D B O L I V I A L E A LAW No. 2341 LAW OF APRIL 23, 2002

### JORGE QUIROGA RAMIREZ CONSTITUTIONAL PRESIDENT OF THE REPUBLIC

Whereas, the Honorable National Congress has enacted the following Law:

#### THE HONORABLE NATIONAL CONGRESS,

#### **DECREES:**

#### LAW ON ADMINISTRATIVE PROCEDURE

### PRELIMINARY TITLE GENERAL PROVISIONS

### ARTICLE 1 (Purpose of the Law). The purpose of this Law is:

- a) Establish the rules governing administrative activity and administrative procedure in the public sector;
- b) To give effect to the exercise of the right of petition before the Public Administration;
- c) Regulate the challenge of administrative actions that affect the subjective rights or legitimate interests of citizens; and
- d) Regulate special procedures.

#### ARTICLE 2 (Scope of Application).

- I. The Public Administration shall adjust all its actions to the provisions of this Law. For the purposes of this Law, the Public Administration is composed of:
  - a) The Executive Branch, which includes the national administration, departmental administrations, decentralized or deconcentrated entities, and the SIRESE, SIREFI, and SIRENARE Regulatory Systems; and
  - b) Municipal Governments and Public Universities.
- II. Municipal governments shall apply the provisions contained in this Law, within the framework of the provisions of the Municipalities Law.
- III. Public universities shall apply this Law within the framework of University Autonomy.
- IV. Entities that perform administrative functions by state delegation shall necessarily adapt their procedures to this Law.

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#### **ARTICLE 3 (Exclusions and Exceptions).**

- I. This Law applies to all acts of the Public Administration, except as expressly provided otherwise by law.
- II. The following are not subject to the scope of application of this Law:
  - a) Government acts relating to the powers of free appointment and removal of authorities;
  - b) The Office of the Ombudsman;
  - c) The Public Prosecutor's Office;
  - d) The agrarian, electoral, and government control systems, which shall be governed by their own procedures;
  - e) Acts of the Public Administration, which by their nature are regulated by private law; and
  - f) Internal military and police procedures that are expressly exempted by law.

### **ARTICLE 4 (General Principles of Administrative Activity).** Administrative activity shall be governed by the following principles:

- a) Fundamental principle: The performance of public functions is intended exclusively to serve the interests of the community;
- b) Principle of self-protection: The Public Administration issues acts that have an effect on citizens and may execute its own acts as appropriate, without prejudice to subsequent judicial review;
- c) Principle of full submission to the law: The Public Administration shall govern its acts in full submission to the law, ensuring due process for those it administers;
- d) Principle of material truth: The Public Administration shall investigate the material truth as opposed to the formal truth that governs civil procedure;
- e) Principle of good faith: In the relationship between individuals and the Public Administration, the principle of good faith is presumed. Trust, cooperation, and loyalty in the actions of public servants and citizens shall guide administrative proceedings;
- f) Principle of impartiality: Administrative authorities shall act in defense of the general interest, avoiding any kind of discrimination or difference between those they administer.
- g) Principle of legality and presumption of legitimacy: The actions of the Public Administration, being fully subject to the law, are presumed to be legitimate, unless expressly declared otherwise by a court of law;
- h) Principle of normative hierarchy: Administrative activity and actions, and particularly the regulatory powers conferred by this Law, shall observe the normative hierarchy established by the Political Constitution of the State and the laws;

- i) Principle of judicial control: The Judiciary controls the activity of the Public Administration in accordance with the Political Constitution of the State and applicable legal norms;
- j) Principle of effectiveness: All administrative procedures must achieve their purpose, avoiding undue delays.
- k) Principle of economy, simplicity, and speed: Administrative procedures shall be carried out with economy, simplicity, and speed, avoiding unnecessary formalities, procedures, or steps;
- Principle of informality: Failure by the administered party to comply with nonessential formal requirements that can be fulfilled at a later date may be excused and shall not interrupt the administrative procedure;
- m) Principle of publicity: The activities and actions of the Administration are public, unless limited by this or other laws;
- n) Principle of ex officio action: The Public Administration is obliged to promote the procedure in all proceedings involving the public interest;
- o) Principle of gratuity: Individuals shall only be obliged to make personal or financial contributions to the Public Administration when expressly established by law or legal regulation; and
- p) Principle of proportionality: The Public Administration shall act in accordance with the purposes established in this Law and shall use the appropriate means to comply with it.

### TITLE I ADMINISTRATIVE PROCEDURE

CHAPTER I REGIME OF SUBJECTS

### SECTION ONE PUBLIC SUBJECTS

#### **ARTICLE 5 (Competence).**

- I. Administrative bodies shall have jurisdiction to hear and decide on administrative matters when these arise from, derive from, or result expressly from the Political Constitution of the State, laws, and regulatory provisions.
- II. The jurisdiction attributed to an administrative body is inalienable, inexcusable, and mandatory, and may only be delegated, substituted, or assumed in accordance with the provisions of this Law.

#### ARTICLE 6 (Conflicts of Jurisdiction).

I. The administrative authority, either ex officio or at the request of a party, may rule on its jurisdiction to hear a matter.

II. Conflicts of jurisdiction between administrative authorities shall be resolved by the appropriate authority in accordance with the special regulations established for each administrative organization system applicable to the public administration bodies covered by Article 2 of this Law. No appeal may be lodged against this decision.

#### **ARTICLE 7 (Delegation).**

- I. Administrative authorities may delegate the exercise of their powers to hear certain administrative matters, for justified reasons, by means of an express, reasoned, and public resolution. This delegation shall only be carried out within the public entity under their responsibility.
- II. The delegating party and the delegate shall be jointly and severally liable for the outcome and performance of the functions, duties, and powers arising from the exercise of the delegation, in accordance with Law No. 1178 on Government Administration and Control of July 20, 1990, and regulatory provisions.
- III. Under no circumstances may the following powers be delegated:
  - a) The powers conferred by the Political Constitution of the State on public authorities;
  - b) Regulatory powers;
  - c) The resolution of hierarchical appeals in the administrative body that issued the act that is the subject of the appeal;
  - d) Powers exercised by delegation; and
  - e) Matters excluded from delegation by the Political Constitution of the State or by law
- IV. Administrative resolutions issued by delegation shall expressly indicate this circumstance and shall be considered to have been issued by the delegating body, without prejudice to the provisions of paragraph II of this article.
- V. The delegation is freely revocable at any time by the body that conferred it, without this affecting or being able to affect the acts issued prior to the revocation.
- VI. The delegation of authority and its revocation shall take effect from the date of their publication in a national newspaper.

#### **ARTICLE 8 (Replacement).**

I. The heads of administrative bodies may be temporarily replaced in the exercise of their functions in cases of vacancy, absence, illness, excuse, or recusal. The substitute shall be appointed in accordance with special regulations for each administrative organization system applicable to the public administration bodies covered by Article 2 of this Law.

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II. The replacement shall not imply any alteration of powers and shall cease as soon as the cause that motivated it ceases to exist.

#### ARTICLE 9 (Assumption of powers).

- I. Hierarchical administrative authorities may assume jurisdiction to hear matters that correspond to their subordinate administrative bodies or authorities. The assumption of jurisdiction shall be carried out by means of an express, reasoned, public resolution and when technical, economic, or legal circumstances justify it.
- II. The hierarchical administrative authority exercising jurisdiction shall be solely responsible for the outcome and performance of the functions, duties, and powers arising from the exercise of jurisdiction, in accordance with Law No. 1178 on Government Administration and Control and regulatory provisions.
- III. The assumption of authority shall not apply to administrative relationships of guardianship or to the Regulatory Systems referred to in Article 2, paragraph I, subsection a) of this Law.

### SECTION TWO EXCUSE AND RECUSAL

#### ARTICLE 10 (Excuse and Recusal).

- I. In accordance with the principle of impartiality, excuses and recusals shall be processed in accordance with special regulations for each administrative organization system, applicable to the public administration bodies covered by Article 2 of this Law.
- II. The following shall be grounds for excuse and recusal for the administrative authority competent to issue administrative acts:
  - a) Kinship with the interested party in a direct or collateral line up to the second degree; and
  - b) A business relationship with the interested party or direct participation in any company involved in the administrative process.
- III. The procedures for recusal and challenge shall not suspend the effects of administrative acts or the deadlines for administrative proceedings of a purely procedural nature.
- IV. Failure to provide an excuse shall be grounds for liability in accordance with Law No. 1178 on Government Administration and Control and regulatory provisions.

#### **CHAPTER II**

# G A C E T O F I C I A D B O L I V I A L E A ADMINISTRATED

### SECTION ONE LEGITIMACY

#### **ARTICLE 11 (Legitimate Action of the Administered Party).**

- I. Any individual or collective person, public or private, whose subjective right or legitimate interest is affected by an administrative action, may appear before the competent authority to assert their rights or interests, as appropriate.
- II. Any person may intervene as a complainant, without the need to prove a personal and direct interest in relation to the fact or act that motivates their intervention.
- III. The Ombudsman may act in the administrative proceedings, in accordance with the Political Constitution of the State and the Law.

**ARTICLE 12 (Interested Third Parties).** When the background of an administrative action establishes that, in addition to the persons appearing, others may have a subjective right or legitimate interest that may be affected, they shall be notified of the proceedings so that they may participate in the process, without the need to roll back the proceedings.

#### ARTICLE 13 (Representation).

- I. Any person who submits requests to the Public Administration may act on their own behalf or through their duly accredited representative or agent.
- II. The representative or agent must present a notarized power of attorney for all administrative proceedings, except in the cases indicated in Article 59 of the Code of Civil Procedure, it being understood in this case that the obligation to accept the proceedings as valid must occur before the final administrative decision is issued and with exemption from the bond of results.
- III. The representation of rural communities and grassroots territorial organizations may be accredited through the presentation of minutes or legal instruments in accordance with the law.

**ARTICLE 14 (Agents or Processors).** Administrative actions that are merely procedural may be carried out by agents or processors duly authorized by notarized letter. The Executive Branch shall regulate the requirements for the exercise of this activity by Supreme Decree.

#### **ARTICLE 15 (Plurality of Interested Parties).**

I. When several interested parties with common rights, interests, and grounds are involved in the administrative action, the competent authority, either ex officio or at the request of a party,

may order them to unify their representation, granting them a period of five days for this purpose

- (5) days to do so, with the alternative of appointing the first representative listed as the common representative.
- II. The unification of representation may be revoked ex officio or at the request of a party, with duly substantiated cause.

### SECTION TWO RIGHTS OF INDIVIDUALS

**ARTICLE 16 (Rights of Individuals).** In their relationship with the Public Administration, individuals have the following rights:

- a) To make requests to the Public Administration, individually or collectively;
- b) To initiate proceedings as holders of subjective rights and legitimate interests;
- c) To participate in proceedings already initiated when they affect their subjective rights and legitimate interests;
- d) To be informed of the status of the proceedings to which they are a party;
- e) To make allegations and present evidence;
- f) Not to submit documents that are in the possession of the public entity involved;
- g) To have errors in public records or documents corrected by providing the relevant information:
- h) To obtain a reasoned and substantiated response to the requests and applications they make;
- i) To demand that actions be carried out within the terms and deadlines of the proceedings;
- j) To obtain certificates and copies of documents held by the Public Administration, with the exceptions expressly established by law or special regulatory provisions;
- k) To access administrative records and files in the manner established by law;
- 1) To be treated with dignity, respect, equality, and without discrimination; and
- m) To demand that public authorities and civil servants act responsibly in the exercise of their functions.

#### ARTICLE 17 (Obligation to Resolve and Administrative Silence).

- I. The Public Administration is obliged to issue an express resolution in all proceedings, regardless of how they were initiated.
- II. The maximum period for issuing an express decision shall be six (6) months from the initiation of the procedure, unless a different period is established in accordance with special regulations for each administrative organization system applicable to the Public Administration bodies covered by Article 2 of this Law.
- III. If the Public Administration has not issued an express resolution within the established period, the person may consider their request to have been rejected due to administrative silence

negative administrative silence, and may file the appropriate administrative or, where applicable, judicial appeal.

- IV. Any authority or public servant who, within the period determined for this purpose, does not issue an express decision resolving the procedures regulated by this Law, may be subject to the application of the public service liability regime, in accordance with the provisions of Law No. 1178 on Government Administration and Control and regulatory provisions.
- V. The silence of the administration shall be considered a positive decision, exclusively in those procedures expressly provided for in special regulatory provisions, and the interested party must act in accordance with these provisions.

#### ARTICLE 18 (Access to Files and Records and Obtaining Copies).

- I. Individuals have the right to access files, public records, and documents held by the Public Administration, as well as to obtain certified copies or copies of such documents, regardless of their form of expression (graphic, audio, image, or other) or the type of material medium on which they appear.
- II. Any limitation or restriction on information must be specific and regulated by express legal provision or determination of an administrative authority with legal powers established for that purpose, identifying the level of limitation. This is without prejudice to legal provisions establishing privileges of confidentiality or professional secrecy and those of a judicial nature which, in accordance with the law, determine measures regarding access to information.
- III. For the purposes set forth in the preceding paragraph on the right of access and obtaining certificates and copies, this right may not be exercised with respect to the following files:
  - a) Those containing information relating to national defense, state security, or the exercise of constitutional powers by the branches of government.
  - b) Those subject to confidentiality or protected by commercial, banking, industrial, technological, and financial secrecy, as established by legal provisions.

#### TITLE II ADMINISTRATIVE ACTS

### CHAPTER I TERMS AND DEADLINES

**ARTICLE 19 (Business Days and Hours) -** Administrative proceedings shall be conducted on business days and during business hours.

On its own initiative or at the request of a party, and always for justified reasons, the competent administrative authority may authorize overtime days and hours.

#### **ARTICLE 20 (Calculation).**

- I. The calculation of the deadlines established in this Law shall be as follows:
  - a) If the deadline is specified in days, only administrative working days shall be counted.
  - b) If the period is set in months, these shall be calculated from date to date, and if in the month of expiry there is no day equivalent to the initial date of calculation, the period shall be understood to end on the last day of the month.
  - c) If the period is set in years, these shall always be understood as calendar years.
- II. In any case, when the last day of the period is a non-business day, it shall always be understood to be extended to the next business day.

#### **ARTICLE 21 (Terms and Deadlines).**

- I. The terms and deadlines for the processing of administrative procedures are understood to be maximum and are binding on administrative authorities, public servants, and interested parties.
- II. The terms and deadlines shall begin to run from the business day following the date on which the act is notified or published and shall end at the end of the last hour of the day on which they expire.
- III. Administrative actions that must be carried out by persons residing in a municipality other than that of the headquarters of the corresponding public entity shall have an additional period of five (5) days from the day of compliance with the deadline.

### CHAPTER II ADMINISTRATIVE ACTIONS

- **ARTICLE 22 (Records).** Public entities shall keep a general record in which all documents or communications submitted or received by any administrative unit shall be recorded. Official documents and communications sent to other bodies or individuals shall also be recorded in the same register.
- **ARTICLE 23 (Formation of Files).** A file shall be formed for all administrative actions relating to the same request or procedure. The documents, reports, or other items that form part of a file shall be duly and correlatively paginated.
- **ARTICLE 24 (Breakdown).** The breakdown of documents must be requested in writing, and the administrative authority or public servant must proceed with it within a maximum period of three (3) days, leaving a copy of them in the file.

#### ARTICLE 25 (Replacement of the File).

- I. In the event of the loss of a file or any documentation forming part thereof, the relevant administrative authority shall order its immediate replacement. The interested party shall provide copies of all writings, proceedings, or documents in their possession. For its part, the Public Administration shall replace copies of the instruments under its responsibility.
- II. In addition to any responsibility for public service that may correspond to them, public servants in charge of the custody and safekeeping of files shall bear the costs of replacement.

**ARTICLE 26 (Measures for Better Provision).** The administrative authority may, in cases of justified necessity and in accordance with the provisions on exceptional contracting set forth in the Basic Rules of the Public Administration System for Goods and Services, contract independent professional services for legal or technical support for the purposes of better and expert provision.

## CHAPTER III REQUIREMENTS FOR ADMINISTRATIVE ACTS

**ARTICLE 27 (Administrative Act).** An administrative act is considered to be any declaration, provision, or decision of the Public Administration, of a general or particular nature, issued in the exercise of administrative, regulatory, or discretionary power, complying with the requirements and formalities established in this Law, which produces legal effects on the administered party. It is mandatory, enforceable, executable, and presumed to be legitimate.

ARTICLE 28 (Essential Elements of the Administrative Act) - The following are essential elements of the administrative act:

- a) Competence: Issued by a competent authority;
- b) Cause: Must be based on the facts and background that serve as grounds for it and on applicable law;
- c) Purpose: The purpose must be true, lawful, and materially possible;
- d) Procedure: Before issuance, the essential and substantive procedures provided for, and those applicable under the legal system, must be complied with;
- e) Basis: It must be substantiated, specifically stating the reasons for issuing the act and also including the requirements indicated in subsection b) of this article; and
- f) Purpose: The purposes provided for in the legal system must be fulfilled.

**ARTICLE 29 (Content of Administrative Acts).** Administrative acts shall be issued by the competent administrative body and their content shall comply

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with the provisions of the legal system. The acts shall be proportional and appropriate to the purposes provided for by the legal system.

**ARTICLE 30 (Reasoned Acts) -** Administrative acts shall be reasoned with reference to facts and legal grounds when:

- a) They resolve administrative appeals;
- b) They provide for the suspension of an act, whatever the reason for it;
- c) They depart from the criteria followed in previous proceedings or from the opinion of advisory or supervisory bodies; and,
- d) They must be so by virtue of an express legal or regulatory provision.

**ARTICLE 31 (Correction of Errors).** Public entities shall correct, at any time, either ex officio or at the request of the interested parties, any material, factual, or arithmetic errors that exist in their acts, without substantially altering the Resolution.

### CHAPTER IV VALIDITY AND EFFECTIVENESS OF ADMINISTRATIVE ACTS

#### ARTICLE 32 (Validity and Effectiveness).

- I. The acts of the Public Administration subject to this Law are presumed to be valid and take effect from the date of their notification or publication.
- II. The effectiveness of the act shall be suspended when so indicated in its content.

#### **ARTICLE 33 (Notification).**

- I. The Public Administration shall notify interested parties of all resolutions and administrative acts that affect their subjective rights or legitimate interests.
- II. Notifications shall be made within the time limit, in the manner, at the address, and under the conditions specified in paragraphs III, IV, V, and VI of this article, except as expressly provided in the special regulations on administrative organization systems applicable to the Public Administration bodies covered by Article 2 of this Law.
- III. The notification shall be made within a maximum period of five (5) days from the date on which the act was issued and shall contain the full text thereof. The notification shall be made at the place expressly designated by them as their address for this purpose, which must be within the municipal jurisdiction of the headquarters of the public entity. Otherwise, it shall be made at the General Secretariat of the public entity.
- IV. If the interested party is not present at their address at the time of delivery of the notification, any person present at that address may take charge of it, provided they state their identity and their relationship with the interested party. If the notification is refused

notification is refused, this shall be recorded in the file, specifying the circumstances of the attempt to deliver the notification, and the procedure shall be deemed to have been carried out in all cases.

- V. Notifications shall be made by any means that allows for proof of:
  - a) Reception by the interested party;
  - b) The date of notification;
  - c) The identity of the person notified or their representative; and
  - d) The content of the notified act.
- VI. When the parties involved in a proceeding are unknown, their address is unknown, or notification has been attempted but could not be effected, notification shall be made by means of an edict published once in a newspaper with wide national circulation or in a local media outlet in the jurisdiction of the administrative body.
- VII. Notifications by mail, fax, and any electronic means of communication may be considered valid upon express regulation.
- **ARTICLE 34 (Publication).** Administrative acts shall be published when so established by the rules of each special procedure or when advised by reasons of public interest. Publication shall be made once in a widely circulated national newspaper or, failing that, where appropriate, in a local media outlet in the seat of the administrative body.

### CHAPTER V NULLITY AND VOIDABILITY

#### ARTICLE 35 (Nullity of the Act).

- I. Administrative acts shall be null and void in the following cases:
  - a) Those that have been issued by an administrative authority without jurisdiction over the matter or territory;
  - b) Those that lack purpose or whose purpose is unlawful or impossible;
  - c) Those that have been issued in total and absolute disregard of the legally established procedure;
  - d) Those that are contrary to the Political Constitution of the State; and
  - e) Any other established expressly by law.
- II. Nullities may only be invoked by filing the administrative appeals provided for in this Law.

#### ARTICLE 36 (Voidability of the Act).

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- I. Administrative acts that violate any provision of law other than those provided for in the previous article shall be voidable.
- II. Notwithstanding the provisions of the preceding paragraph, a defect of form shall only determine nullity when the act lacks the formal requirements essential to achieve its purpose or gives rise to the defenselessness of the interested parties.
- III. The performance of administrative actions outside the time established for them shall only give rise to the nullity of the act when the nature of the term or administrative deadline so requires.
- IV. Annulments may only be invoked by filing the administrative appeals provided for in this Law.

#### **ARTICLE 37 (Validation and Rectification).**

- I. Annullable acts may be validated, remedied, or rectified by the same administrative authority that issued the act, correcting any defects it may have.
- II. The administrative authority must observe the limits and modalities established by applicable law, safeguarding any subjective rights or legitimate interests that the validation or rectification may generate.
- III. If the infringement consists of hierarchical incompetence, the validation may be carried out by the competent body when it is hierarchically superior to the one that issued the act.
- IV. If the infringement consists of a lack of authorization, the act may be validated by the granting of such authorization by the competent body.

#### ARTICLE 38 (Effects of Nullity or Annulability).

- I. The nullity or voidability of an administrative act shall not imply the nullity or voidability of subsequent acts in the procedure, provided that they are independent of the first.
- II. The nullity or voidability of part of an administrative act shall not imply the nullity or voidability of other parts of the same act that are independent of it.

### TITLE III GENERAL ADMINISTRATIVE PROCEDURE

### CHAPTER I INITIATION OF THE PROCEDURE

**ARTICLE 39 (Types of Initiation) -** Administrative procedures may be initiated ex officio or at the request of an interested party.

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#### ARTICLE 40 (Ex Officio Initiation).

- I. Procedures shall be initiated ex officio when so decided by the competent body. This decision may be taken on the body's own initiative, as a result of a higher order, at the reasoned request of other bodies, or on the basis of a complaint by third parties.
- II. Before deciding to initiate the procedure, the competent administrative body may open a preliminary information period in order to ascertain and determine the circumstances of the case.

**ARTICLE 41 (Initiation at the Request of the Interested Parties).** If the proceedings are initiated at the request of the interested parties, the document they shall state the following:

- a) The administrative body or unit to which it is addressed;
- b) The name and surname(s) of the interested party and, where applicable, of the person representing them;
- c) The address for notification purposes, which must be within the jurisdiction of the municipality where the administrative body is based, and the precise address or residence:
- d) The facts, reasons, and request, clearly specifying what is sought;
- e) Provide all the evidence that may be favorable to the interested party;
- f) The place and date; and
- g) The signature of the applicant or proof of the authenticity of their will, expressed by any means.

**ARTICLE 42 (Qualification of the Procedure) -** The administrative body shall qualify and determine the procedure that corresponds to the nature of the matter raised, if the parties have made an error in its application or designation.

ARTICLE 43 (Correction of Defects). If the request to initiate the procedure does not meet the essential legal requirements, the Public Administration shall require the interested party to correct the deficiency or provide the necessary documents within a period not exceeding five (5) days, indicating that, if they fail to do so, a decision will be issued considering their request withdrawn.

#### **ARTICLE 44 (Joinder).**

- I. The administrative body that initiates or processes a procedure, regardless of how it was initiated, may, on its own initiative or at the request of a party, decide to join it with another or other procedures when these have the same interest and purpose.
- II. When proceedings are being conducted before different administrative bodies, the joinder, if applicable, shall be carried out before the body that first initiated the proceedings. If a conflict arises over the appropriateness of the joinder, it shall be resolved as provided for in Article 7 of this Law.

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resolved in accordance with the provisions for conflicts of jurisdiction set forth in Article 7 of this Law.

- III. No administrative appeal may be lodged against the joinder decision, without prejudice to the right of the interested parties to make the appropriate allegations in the appeal they lodge against the decision that ends the proceedings.
- **ARTICLE 45** (Intervention of the Public Prosecutor's Office). The Public Prosecutor's Office may participate and act in administrative proceedings, in accordance with its organic law, when it establishes, on reasonable grounds, the need to monitor the legality of the proceedings and the primacy of the Constitution and the laws. The nullity of any administrative action may not be invoked on the grounds of the absence of intervention by the Public Prosecutor's Office.

### CHAPTER II PROCESSING OF THE PROCEEDINGS

#### **ARTICLE 46 (Processing).**

- I. The administrative procedure shall be conducted ex officio at all stages and shall be processed in accordance with the principles established in this Law.
- II. At any time during the proceedings, the interested parties may present arguments and provide documents or other evidence, which shall be taken into account by the competent body when drafting the corresponding decision.

#### ARTICLE 47 (Evidence).

- I. The facts relevant to the decision in a proceeding may be proven by any means of evidence admissible in law.
- II. The time limit and manner of producing evidence shall be as determined in paragraph III of this article, except as expressly provided for in special regulations established for each administrative organization system applicable to the public administration bodies covered by Article 2 of this Law.
- III. The administrative authority shall, by means of express orders, determine the procedure for the production of admissible evidence. The period for the presentation of evidence shall be fifteen (15) days. This period may be extended for justified reasons, once only, for an additional period of ten (10) days.
- IV. The authority may reject evidence that it considers manifestly inadmissible or unnecessary. Evidence shall be assessed in accordance with the principle of sound judgment.
- V. The costs of providing and producing the evidence shall be borne by the interested parties who request it.

#### ARTICLE 48 (Reports).

- I. In order to issue the final decision in the proceedings, any reports that are required by law and those deemed necessary to issue the decision shall be requested, citing the rule that requires them or, where appropriate, justifying their necessity.
- II. Unless otherwise provided by law, the reports shall be optional and shall not oblige the administrative authority to decide in accordance with them.
- III. If the report is to be issued by a public entity other than the one handling the proceedings and the deadline has passed without it being issued, the proceedings may continue and the report issued after the deadline may not be taken into account when issuing the corresponding decision.

**ARTICLE 49 (Arguments).** Once the evidence has been produced or the deadline for its production has expired, the administration shall decree the closure of the evidentiary period and, if it considers it necessary due to the complexity of the facts and the evidence produced, shall grant a period of five (5) days for the interested party to review the file and argue on the evidence produced.

#### ARTICLE 50 (Public Hearing).

- I. The body responsible for resolving the proceedings may, at its discretion, convene a public hearing when the nature of the proceedings so requires or affects legally organized professional, economic, or social sectors. The hearing shall be mandatory when so provided by the special regulations established for each administrative organization system applicable to the public administration bodies covered by Article 2 of this Law.
- II. Failure to appear at this public hearing shall in no case prevent the interested parties from filing the appropriate appeals against the final decision of the proceedings.

### CHAPTER III TERMINATION OF THE PROCEEDINGS

#### **ARTICLE 51 (Forms of Termination).**

- I. The administrative procedure shall be terminated by a decision issued by the competent administrative body, without prejudice to the appeals established by law.
- II. The administrative procedure shall also be terminated by withdrawal, extinction of the right, waiver of the right on which the application is based, and the material impossibility of continuing it due to supervening causes.

#### ARTICLE 52 (Content of the Resolution).

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- I. Administrative proceedings must necessarily conclude with the issuance of an administrative resolution declaring the total or partial acceptance or rejection of the claim of the administered party, without prejudice to the provisions of paragraph III of Article 17 of this Law.
- II. The Public Administration may not fail to resolve the matter brought to its attention on the grounds of lack, obscurity, or insufficiency of the applicable legal provisions.
- III. The acceptance of reports or opinions shall serve as the basis for the resolution when they are incorporated into the text thereof.

#### ARTICLE 53 (Withdrawal and Waiver).

- I. Interested parties may, at any time and in writing, withdraw their claim or waive their right if it is waivable, which shall result in the conclusion of the proceedings and the filing of the case.
- II. The administrative authority shall issue a decision accepting the withdrawal or waiver in a simple and straightforward manner and without any other formalities, unless it affects the public interest or that of legally represented third parties.
- III. Withdrawal does not imply waiver of the right to initiate new proceedings in accordance with the law.

#### CHAPTER IV ENFORCEMENT

**ARTICLE 54 (Cause).** The Public Administration shall not initiate any enforcement that limits the rights of individuals without first concluding the corresponding legal proceedings by means of a resolution with the appropriate legal basis serving as cause.

#### ARTICLE 55 (Enforceability).

- I. Final decisions by the Public Administration, once notified, shall be enforceable, and the Public Administration may proceed with their enforcement through the competent bodies in each case.
- II. Exceptions to the provisions of the preceding paragraph shall be cases in which enforcement is suspended in accordance with paragraph II of Article 59 of this Law, and those in which higher approval or authorization is required.
- III. The Public Administration shall itself enforce its own administrative acts in accordance with the special regulations established for each administrative organization system

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applicable to the bodies of the Public Administration covered by Article 2 of this Law.

### CHAPTER V PROCEDURE FOR ADMINISTRATIVE APPEALS

### SECTION ONE GENERAL PROVISIONS

#### **ARTICLE 56 (Admissibility).**

- I. Administrative appeals may be lodged against any type of final decision or administrative act of an equivalent nature, provided that, in the opinion of the interested parties, such administrative acts affect, harm, or could cause damage to their subjective rights or legitimate interests.
- II. For the purposes of this Law, final decisions or administrative acts shall be understood to be equivalent to those administrative acts that put an end to an administrative proceeding.
- ARTICLE 57 (Inadmissibility). Administrative appeals are not admissible against acts of a preparatory nature or mere formalities, except in the case of acts that make it impossible to continue the proceedings or result in a lack of defense.
- **ARTICLE 58 (Form of Presentation).** Appeals shall be presented in a well-founded manner, complying with the requirements and formalities, within the time limits established by this Law.

### ARTICLE 59 (Criteria for Suspension).

- I. The filing of any appeal shall not suspend the execution of the contested act.
- II. Notwithstanding the provisions of the preceding paragraph, the administrative body competent to resolve the appeal may suspend the execution of the contested act, either ex officio or at the request of the appellant, for reasons of public interest or to avoid serious harm to the applicant.
- **ARTICLE 60 (Affected third parties).** If the challenge to a decision affects the subjective rights or legitimate interests of third parties, whether individuals or groups, the administrative authority shall notify them of the challenge, either in person or by public notice, so that those affected may appear and present their arguments within ten (10) days.
- **ARTICLE 61 (Forms of Resolution).** The administrative appeals provided for in this Law shall be resolved by confirming or revoking the contested resolution in whole or in part, or, where appropriate, dismissing the appeal if it was filed outside the

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the time limit, does not comply with the formalities expressly indicated in the applicable provisions, or does not meet the requirement of standing established in Article 11 of this Law.

#### **ARTICLE 62 (Evidence Period).**

- I. The administrative authority, either ex officio or at the request of a party, may determine the opening of a period of evidence, taking the corresponding steps for this purpose.
- II. The period for evidence in this instance shall be ten (10) days, except as expressly determined in accordance with special regulations for each administrative organization system applicable to the public administration bodies covered by Article 2 of this Law.
- III. The trial period shall proceed only when there are new facts or documents that are not considered in the file. For these purposes, the appeal brief and the reports shall not be considered new documents, nor shall those that the interested party was able to attach to the file before the appealed decision was issued.
- IV. Administrative remedies shall comply with the procedure established in this Chapter and, additionally, with the provisions of Chapters I, II, III, and IV of Title Three of this Law.

#### ARTICLE 63 (Scope of the Resolution).

- I. Within the period established in special regulatory provisions for resolving administrative appeals, the corresponding resolution shall be issued, setting out the factual and legal grounds on which it is based.
- II. The resolution shall always refer to the claims made by the appellant, and in no case may the appellant's initial situation be aggravated as a result of the appeal itself.

### SECTION TWO APPEAL FOR REVOCATION

**ARTICLE 64 (Appeal for Revocation) -** The appeal for revocation shall be filed by the interested party before the administrative authority that issued the contested decision, within ten (10) days of its notification.

ARTICLE 65 (Time Limit and Scope of the Decision). The body that issued the contested decision shall have a period of twenty (20) days to hear and decide on the appeal for revocation, except as expressly determined in accordance with special regulations established for each administrative organization system applicable to the bodies covered by Article 2 of this Law. If no decision is issued by the deadline, the appeal shall be deemed denied and the interested party may file a hierarchical appeal.

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#### SECTION THREE HIERARCHICAL APPEAL

#### **ARTICLE 66 (Hierarchical Appeal).**

- I. The interested party or affected party may only file a hierarchical appeal against the decision resolving the appeal for revocation.
- II. The hierarchical appeal shall be lodged with the same administrative authority competent to resolve the appeal for revocation, within ten (10) days of its notification, or on the day on which the deadline for resolving the appeal for revocation expired.
- III. Within three (3) days of being filed, the hierarchical appeal and its background information must be forwarded to the competent authority for its consideration and resolution.
- IV. The competent authority to resolve hierarchical appeals shall be the highest executive authority of the entity or the authority established in accordance with special regulations for each administrative organization system, applicable to the public administration bodies covered by Article 2 of this Law.

#### ARTICLE 67 (Time limit for resolution).

- I. To substantiate and resolve the hierarchical appeal, the competent administrative authority of the public entity shall have a period of ninety (90) days, except as expressly determined in accordance with special regulations established for each administrative organization system applicable to the public administration bodies covered by Article 2 of this Law.
- II. The period shall be calculated from the date on which the appeal is filed. If no decision is issued by the end of that period, the appeal shall be deemed to have been accepted and, consequently, the appealed act shall be revoked, under the responsibility of the relevant authority.

#### **ARTICLE 68 (Scope of the Decision on the Hierarchical Appeal).**

- I. Decisions on hierarchical appeals shall define the merits of the case under consideration and shall in no case require the lower authority to issue a new decision, except as provided in paragraph II of this article.
- II. The scope of the resolutions of hierarchical appeals of Regulatory Systems such as SIRESE, SIREFI, and SIRENARE shall be established by regulation, according to the competence and characteristics of each system.

### SECTION FOUR END OF THE ADMINISTRATIVE PROCESS

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**ARTICLE 69 (Exhaustion of Administrative Remedies) -** Administrative remedies shall be exhausted in the following cases:

- a) In the case of resolutions that resolve hierarchical appeals filed;
- b) In the case of administrative acts against which no administrative appeal may be lodged in accordance with the provisions of this or other laws;
- c) When in the case of resolutions of administrative bodies that have no hierarchical superior, unless a law establishes otherwise; and,
- d) In the case of resolutions other than those indicated in the preceding paragraphs, provided that a law so establishes.

**ARTICLE 70** (Contentious-Administrative Proceedings). Once the hierarchical appeal has been resolved, the interested party may seek judicial review through contentious-administrative proceedings before the Supreme Court of Justice.

#### CHAPTER VI SANCTIONING PROCEDURE

## SECTION ONE GENERAL PRINCIPLES

**ARTICLE 71 (Sanctioning Principles).** The administrative sanctions that the competent authorities must impose on individuals shall be based on the principles of legality, specificity, presumption of innocence, proportionality, punitive procedure, and non-retroactivity.

ARTICLE 72 (Principle of Legality). Administrative sanctions may only be imposed when they have been expressly provided for, in accordance with the procedure established in this Law and applicable regulatory provisions.

#### ARTICLE 73 (Principle of Specificity).

- I. Administrative offenses are actions or omissions expressly defined in laws and regulations.
- II. Only those administrative sanctions expressly established in laws and regulations may be imposed.
- III. Administrative sanctions, whether pecuniary or otherwise, may not in any case directly or indirectly involve deprivation of liberty.

**ARTICLE 74 (Principle of Presumption of Innocence).** In accordance with the constitutional provision, persons are presumed innocent until proven guilty in a proper administrative proceeding.

**ARTICLE 75** (**Principle of Proportionality**) - The establishment of financial penalties shall ensure that the commission of the offenses defined is not more beneficial to the offender than compliance with the rules infringed.

**ARTICLE 76 (Principle of Punitive Procedure) -** No administrative penalty may be imposed on individuals without the prior application of the punitive procedure established in this Law or in the applicable sectoral provisions.

**ARTICLE 77 (Principle of Non-Retroactivity) -** Only the penalty provisions in force at the time of the events constituting the administrative offense shall be applicable.

#### **ARTICLE 78 (Liability).**

- I. Only individuals or legal entities that are responsible may be penalized for acts constituting administrative offenses.
- II. When compliance with the obligations provided for in a legal provision corresponds to several persons jointly, all of them shall be jointly and severally liable for any infringements committed and for any penalties imposed.

ARTICLE 79 (Statute of Limitations for Offenses and Penalties). Offenses shall be subject to a statute of limitations of two (2) years. The penalties imposed shall expire within one (1) year. The statute of limitations on penalties shall be interrupted by the initiation of collection proceedings, in accordance with the special regulations for public administration bodies, as provided for in Article 2 of this Law.

### SECTION TWO STAGES OF THE DISCIPLINARY PROCEDURE

### ARTICLE 80 (Applicable Rules).

- I. The disciplinary procedure shall be governed by the provisions of this Chapter and by the provisions of Chapters I, II, III, and IV of Title Three of this Law.
- II. The administrative disciplinary procedures established for each administrative organization system applicable to the public administration bodies covered by Article 2 of this Law must take into account the successive stages of initiation, processing, and termination provided for in this Chapter, and the disciplinary procedure contained in this Law shall, in all cases, be supplementary in nature.

#### **ARTICLE 81 (Preliminary Proceedings).**

I. Prior to the initiation of disciplinary proceedings, the officials expressly designated for this purpose by the competent administrative authority shall organize and gather all the necessary preliminary proceedings, identifying the individuals or entities allegedly responsible for the

acts that may give rise to the initiation of proceedings, the rules or provisions expressly violated, and other circumstances relevant to the case.

II. Where provided for in the rules governing specific disciplinary proceedings, preventive measures may be adopted by means of a reasoned decision to ensure the effectiveness of any final decision that may be handed down.

ARTICLE 82 (Initiation Stage). The initiation stage shall be formalized by notifying the alleged offenders of the charges against them, warning them that if they do not present evidence in their defense or arguments within the period provided for by this Law, the corresponding decision may be issued.

#### **ARTICLE 83 (Processing Stage).**

- I. Within fifteen (15) days of notification, the alleged offenders may submit all evidence, arguments, documents, and information they deem appropriate to their interests.
- II. All legally established means of evidence shall be accepted.

**ARTICLE 84 (Termination Stage).** Once the trial period has expired, the relevant administrative authority shall issue a decision imposing or dismissing the administrative sanction within ten (10) days. The administrative remedies provided for in this Law shall apply to the aforementioned decision.

#### TRANSITIONAL AND FINAL PROVISIONS TRANSITIONAL

#### **PROVISIONS**

#### **First Transitional Provision.**

- I. Within a maximum period of eight (8) months from the enactment of this Law, the Executive Branch, through the Ministries of Justice and Human Rights and the Presidency of the Republic, shall proceed to analyze and present the regulatory projects for each administrative organization system, as established in Article 2 of this Law. Within the same period, the Judiciary and the Legislature shall develop the respective internal regulations.
- II. Until the regulatory provisions referred to in paragraph I are enacted, the regulatory systems of SIRESE, SIREFI, and SIRENARE shall apply the administrative procedures set forth in their corresponding sectoral legal provisions.

**Second Transitory Provision.-** The general regulatory provisions and administrative acts that have been enacted prior to the entry into force of

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This Law shall remain in force in all matters to which it refers, except insofar as it is contrary to this Law.

#### Third Transitory Provision.

- I. Administrative proceedings that are pending at the time this Law enters into force shall be governed by the previous laws and provisions.
- II. Administrative appeals, regardless of their name and legal regime, that are pending at the time this Law enters into force shall be governed by the previous laws and provisions in all their phases and instances, and the final decision issued in such appeals shall be subject to contentious-administrative proceedings.

**Fourth Transitional Provision.** The provisions on disciplinary proceedings contained in Chapter IV of Title Three of this Law shall be applicable to the events giving rise to them that occur from the date of entry into force of this Law.

#### **FINAL PROVISIONS**

**Final Provision One.-** All provisions of equal or lower hierarchy contrary to this Law are hereby repealed.

**Final Provision Two.-** This Law shall enter into force twelve (12) months after its publication.

Refer to the Executive Branch for constitutional purposes.

Given in the Chamber of the Honorable National Congress, on the twenty-second day of April two thousand and two.

Signed: Enrique Toro Tejada, Luis Angel Vásquez Villamor, Wilson Lora Espada, Félix Alanoca Gonzáles, Fernando Rodríguez Calvo, Juan Huanca Colque.

Therefore, I hereby enact it to be held and enforced as Law of the Republic.

Government Palace of the city of La Paz, on the twenty-third day of April two thousand and two.

**SIGNED: JORGE QUIROGA RAMIREZ,** Alberto Leytón Aviles, José Luis Lupo Flores, Oscar Guilarte Luján, Jacques Trigo Loubiere, Carlos Alberto Goitia Caballero, Carlos Kempff Bruno, Amalia Anaya Jaldín, Ramiro Cavero Uriona.